



COMMODITY FUTURES TRADING COMMISSION

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Division of
Enforcement

October 25, 2024

FILED BY ECF

Hon. Jessica G. L. Clarke
United States District Judge
United States District Court
Southern District of New York
500 Pearl St.
New York, NY 10007-1312

Re: ***CFTC v. Velissaris*, 1:22-cv-01347 (JGLC)**

Dear Judge Clarke:

Plaintiff Commodity Futures Trading Commission (the “Commission”) submits this letter regarding the status of the related parallel criminal proceeding before the Honorable Denise L. Cote *United States v. James Velissaris*, 1:22-cr-00105 (DLC) (the “Criminal Case”), as required by the Court’s September 19, 2024 Order (ECF No. 33) (ordering the parties to provide the Court with a status update within six months or two weeks of the appeal being resolved). The Court recently issued an order granting withdrawal of Mr. Velissaris’s counsel. *See* ECF No. 36. The Commission is unaware of Mr. Velissaris retaining new counsel and understands he is proceeding pro se as reflected on the case docket.

As background, on March 28, 2022, the Court granted the United States Attorney’s unopposed motions to intervene and to stay this action in its entirety until the conclusion of the Criminal Case. ECF No. 12 (“Stay Order”). Subsequently, the Court granted the parties’ numerous requests to continue the stay until the conclusion of the Criminal Case, and case remains stayed today. *See* ECF Nos. 13, 15, 17, 19, 21, 25, 28, 30, 32.

On October 16, 2024, in the Criminal Case, the Second Circuit dismissed Mr. Velissaris’s appeal with respect to the term of imprisonment and affirmed the judgment in all other respects. *See United States v. James Velissaris*, summary order and judgment, Nos. 23-6379 and 23-6953 (entered Oct. 16, 2024), attached as Exhibit A.

Given the appeal was dismissed, and that Mr. Velissaris is now proceeding pro se, the Commission intends to contact Mr. Velissaris directly to explore a potential resolution of this matter through a Consent to Judgment agreement. Additional time is necessary, however, given Mr. Velissaris’s incarceration, which creates communication challenges, and his presumed unfamiliarity with resolution of a case by Consent Judgement. The Commission also needs

additional time because of the of the lengthy process counsel for the Commission is required to undertake to secure formal Commission approval for any resolution.¹

Accordingly, the Commission requests that the Court continue the stay in this matter for an additional ninety (90) days to allow sufficient time for the Commission to contact Mr. Velissaris, discuss the terms of a potential resolution, and if an agreement is reached, to prepare and file a proposed Consent Order with the Court. Continuing the stay would serve the interest of judicial efficiency without undue prejudice to Mr. Velissaris, the Commission, or to the overall public interest.

The Commission is available should the Court have any questions.

Respectfully submitted,

/s/ Jonah E. McCarthy

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¹ The CFTC prosecutes actions through the Division of Enforcement (“Division”), to which the undersigned attorneys are assigned, but the Division does not possess independent settlement authority; instead, the Division presents offers of settlement to the Commission with a recommendation that the offer be accepted or declined, and requests authority to enter into the proposed settlement and file it with the U.S. District Court. *See CFTC v. Field*, 249 F.3d 592, 594 (7th Cir. 2001) (acknowledging the framework within which the CFTC and the Division operate).